

ACTS AND LAWS,

Passed by the General Court or Assembly
of His Majesties Province of
~~New-Hampshire~~ in
New-England.

Begun and Held at *Portsmouth*, on *Monday* the Seventh
Day of *August*, 1699.

*Anno Regni Gulielmi Tertii, Anglie, Scotie,
Francie, et Hibernie, REGIS, Undecimo.*



BOSTON.

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His Excellency the Earl of BELLOMONT. 1699.

Acts and Laws,

Passed by the General Court or Assembly of
His Majesties Province of *New-Hampshire*
in *New-England*.

An Act for Restraining and Punishing Privateers and Pirates.

WHEREAS nothing can more contribute to His Sacred Majesties Honour then that such Articles as are concluded and agreed on in all Treaties of Peace should by all His Majesties Subjects according to their Duty be most inviolably preserved and kept in and over all His Majesties Dominions and Territories. And whereas not only against such Treaties of Peace made by His Majesty with His Allies, but also contrary to His Majesties Royal Proclamation several of His Subjects have and do go, into Forreign Princes Services, and Sail under their Commissions contrary to their Duty and good Allegiance, and by fair means cannot be restrained from so doing.

Be it therefore Enacted by His Excellency the Governour, Council and Representatives, Convened in General Assembly, and it is hereby Enacted by Authority of the same, That from and after Publication hereof, it shall be Felony for any person which now doth, or within four years last past, hath, or hereafter shall inhabit or belong to this Province, to Serve in an Hostile manner under any Forreign Prince, State or Potentate, or any Employed under any of them, against any other Forreign Prince, State or Potentate in Amity with His Majesty of Great Britain, without special License for so doing under the Hand and Seal of the Governour or Commander in Chief of this Province for the time being. And that all and every such Offender or Offenders, contrary to the true intent and meaning of this Act, being thereof duly Convicted in His Majesties Superiour Court of Judicature within this Province, to which Court, Authority is hereby given to hear and determine the same as other Cases of Felony: shall suffer pains of Death without benefit of Clergy.

Felony, to serve in hostile manner under any forreign Prince without Licence.

Provided nevertheless, That this Act nor any thing therein contained shall extend to any person or persons which now are or have been in the Service or Employ of any Forreign Prince, State or Potentate whatsoever, that shall return to this Province, and leave and desert such Service and Employment before the Twenty Ninth Day of September, Anno One Thousand Seven Hundred, rendering themselves to the Governour or Commander in Chief for the time being, and giving him such Security as he shall appoint for their future good behaviour. And also that they shall not depart the Province, without the Governours Ticker Licence.

Saving for such as shall desert before the 29. of September 1700.

And for the better and more speedy Execution of Justice upon such who having committed Treasons, Piracies, Felonies, and other Offences upon the Sea, shall be apprehended in, or brought Prisoners to this Province.

Be it further Enacted by the Authority aforesaid, That all Treasons, Felonies, Piracies, Robberies, Murthers, or Confederacies committed, or that hereafter

Treasons, Felonies, Piracies &c. committed on the Sea to be inquired heard & judged, as if committed on the Land, by Commission directed to the Judge of the Admiralty &c.

hereafter shall be committed upon the Sea, or in any Haven, Creek or Bay where the Admiral hath Jurisdiction, shall be punished with Death; and shall be Inquired, Tried, Heard, Determined and Judged within this Province in such like form, as if such Offence had been committed, in and upon the Land; and to that end and purpose, Commissions shall be had under the Seal of this Province, directed to the Judge of the Admiralty of this Province for the time being, and to three or more such substantial persons as by His Majesties Governour or Commander in Chief of this Province for the time being, with the advice and consent of the Council shall be named and appointed, which said Commissioners, or such a Quorum of them as by such Commission shall be thereunto Authorized, shall have full power to do all things, in and about the Inquiry, hearing, determining, adjudging and punishing of any of the Crimes and Offences aforesaid, as any Commissioners to be appointed by Commission under the Great Seal of England, by virtue of a Statute made in the Twenty-Eighth Year of the Reign of King Henry the Eighth are Impowred to do and execute within the Kingdom of England. And that the said Offenders which are or shall be apprehended in, or brought Prisoners to this Province, shall be liable to such Order, Process, Judgments and Execution, by virtue of such Commission to be grounded upon this Act as might be awarded or given against them if they were proceeded against within the Realm of England, by virtue of any Commission grounded upon the said Statute. And all Tryals heretofore had against such Criminal and Criminals before any Judge or Judges by virtue of such Commission or Authority at any time heretofore granted, and all Proceedings thereupon are hereby ratified and confirmed and adjudged lawful. And all such Judges with all and every the Inferiour Officers that have acted thereby, are hereby Indemnified to all intents and purposes whatsoever. And in case they or any of them shall at any time hereafter be sued, vexed, molested or troubled for any such their Proceedings as aforesaid, he or they so sued, vexed, molested or troubled, shall plead the General Issue, and give this Act in Evidence: Any Law Statute, Custom or Usage to the contrary in any wise notwithstanding.

Persons knowingly entertaining, harbouring, concealing or corresponding with any Privateers or Pirates to be accounted Accessories and confederates.

And be it further Enacted by the Authority aforesaid, That all and every person and persons that shall any way knowingly entertain, harbour, conceal, trade or hold any correspondence by Letter or otherwise, with any person or persons, that shall be deemed and adjudged to be Privateers, Pirates, or other Offenders within the Construction of this Act, and that shall not readily endeavour to the best of his or their power to apprehend, or cause to be apprehended such Offender or Offenders shall be liable to be prosecuted as Accessories and Confederates, and to suffer the like pains and penalties as in and by this Act is provided for the Principals.

And for the better and more effectual Execution of this Act.

Commission Officers Impowred and required to seize & apprehend all Privateers, Pirates &c.

Be it further Enacted by the Authority aforesaid, That all Commission Officers in their several Precincts within this Province are hereby required and Impowred, upon his or their knowledge, or credible notice given that any Privateers, Pirates, or other persons suspected to be upon any unlawful design, are in any place within their respective Precincts, to raise and levy such a number of well Armed men as he and they shall think needful for the seizing, apprehending and carrying to Goal all and every such person and persons; and in case of any resistance or refusal to yield Obedience to His Majesties Authority, it shall be lawful to kill or destroy such person or persons; And all and every person and persons that shall oppose or resist by striking or firing upon any of the Commanded parties, shall be deemed, taken and adjudged as Felons, and

Piracy.

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and shall suffer the pains of Death. And every such Officer that shall omit or neglect his duty herein, shall forfeit *Fifty Pounds*, current Money of this Province for every such Offence, to be recovered in any of His Majesties Courts of Record within this Province, by Bill, Plaint or Information, wherein no essoin, wager of Law or protection shall be allowed; one Moiety thereof to be to our Sovereign Lord the King, His Heirs and Successors, for and towards the Support of the Government of this Province and the contingent Charges thereof; and the other Moiety to the Informer. And all and every person and persons that upon orders given him or them shall refuse to repair immediately with his or their Arms well fixed and Ammunition, to such place or places as shall be appointed by the said Officer, and not readily obey his Command in the premises, shall be Imprisoned without Bail or Mainprize, until the next General Sessions of the Peace within the same County, and by the Justices of the same Court fined, not exceeding *Ten Pounds*, or be corporally punished, not exceeding Ten Stripes, at the discretion of the Justices.

For the better Encouragement to make diligent Enquiry after, and Seizure of Pirates Goods.

Be it further Enacted by the Authority aforesaid, That whatsoever person or persons shall make discovery and seizure of any Goods or Treasure, that shall be brought into this Province by any Pirate or Pirates, or in form of or disclose the same, so as that such Goods or Treasure be seized and secured to be answerable in the Law, every such person or persons shall have and receive as a recompence for such Service, one fifth part of the Goods and Treasure so seized and secured, or of the value thereof within ten days next after Condemnation of said Goods or Treasure, to be paid by order of the Justices of the Court where the Tryal shall be had, and all the remainder of such Goods and Treasure to be secured by order of the Justices of such Court for the use and benefit of the true and right Owners thereof if any such appear, by themselves, Factors, Agents or Attorneys, within the time of eighteen months next after such Condemnation, and shall make out their right thereunto, all just and reasonable Charges being first deducted and paid thereout. And if no Claimer or Claimers appear and make out their Right thereto within the said time of eighteen months then all the remainder of such Goods and Treasure the Charges as aforesaid, being first deducted and paid thereout to be delivered into His Majesties Treasury within this Province, there to be lodged until His Majesties Pleasure shall be signified, how the same shall be disposed of.

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An

Jurors.

An Act to return able and sufficient Jurors to Serve in the several Courts of Justice, and to Regulate the Election of Representatives to Serve in the General Assembly within this Province.

BE it Enacted by His Excellency the Governour, Council and Representatives Convened in General Assembly, and by the Authority of the same, That the Clerks of the several Courts of Justice within this Province fifteen days at least before the day limited by Law for holding such Courts from time to time, shall make out a Writ of *Venire Facias*, directed unto the Sheriff of the Province, Commanding him in His Majesties Name to Impannel and return so many good and lawful men for Grand and Petit Jurors, out of the several Towns within this Province in as near a proportion as may be according to the number of Inhabitants, each person so returned to have an Estate of Freehold worth *Forty Shillings Per Annum* at the least, or *Fifty Pounds* Sterling in personal Estate; And the Sheriff shall cause each person named in his Pannel to be duly Summoned and Warned to attend the Service of the Court where the same is returnable. The Grand Jurors for the Quarter Sessions of the Peace, to Serve one whole year from the time of their being Sworn, and every person Impanelled and Summoned as aforesaid, to Serve as a Juror at any of the said Courts who shall make default by not appearing or not attending the Service required of him, shall loose and forfeit the Sum of *Forty Shillings*, unless such persons make a reasonable Excuse for the same to be approved and allowed by the Justices of the said Court, the said Forfeiture to be unto the use of our Sovereign Lord the King, for and towards the Support of the Government, and for answering the incident charges thereof, and to be Imposed and set by the Justices of the Court where the *Venire* is returnable. And when it shall happen by reason of Challenge, default in appearance or otherwise there shall not remain a sufficient number to make up a Petit Jury, the Sheriff by Command of the Justices of the Court shall return so many persons *de talibus Circumstantibus*, as shall be requisite to make up a full Jury. And in case where the Sheriff shall be a party, or related to either of the parties, the Jury shall be Impanelled and returned by the Coroner, who is also hereby Impowred to Serve Writs in cases where the Sheriff is concerned.

And be it further Enacted by the Authority aforesaid, That no person Inhabiting within this Province, other than Freeholders of the value or income of *Forty Shillings Per Annum* or upwards in Land, or worth *Fifty Pounds* Sterling at the least in personal Estate, shall have any Vote in the Election of Representatives; or be capable of being Elected to Serve in the General Assembly, and the tryal of such Qualification as aforesaid, shall be by the last Lists of Rates and Assessments which the Select men of each respective Town, are hereby required to bring with them for that end, upon all dayes and times appointed for such Election.

And be it further Enacted by the Authority aforesaid, That there be a suitable person Chosen in each Town after the same manner used for Choice of other Officers to be Town Clerk to Serve in the said Office until another be Chosen and Sworn in his stead; and every such Town Clerk shall have an Oath Administred unto him, by a Justice of the Peace well and truly to Execute the said Office and Trust.

An

An Act for a Tax or Assessment, of
Five Hundred Pounds.

WHEREAS His Majesties Loyal and Dutiful Subjects the Representatives of His Majesties Province of New-Hampshire, Convened in General Assembly, do cheerfully and unanimously give and grant unto His Most Excellent Majesty the Sum of Five Hundred Pounds in Money, humbly beseeching Your Majesty, that the same may be applyed and appropriated unto the sole and proper use of His Excellency Richard Earl of Bellomont, Your Majesties Governour in Chief of this Province. In Testimony of our great regard and respect unto His Lordship, under whose happy Conduct we assure our selves to enjoy great quiet and felicity; And pray that it may be Enacted.

And be it Enacted accordingly by the Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That the said Sum of Five Hundred Pounds to and for the use aforesaid be Raised by a Tax or Assessment to be made and laid in manner as is hereafter expressed, upon all persons and Estates both real and personal lying, being and belonging to the severall Towns and the Districts thereof within this Province, according to each Towns proportion towards the same, as followeth: That is to say,

	<i>l</i>	<i>s</i>	<i>d</i>
<i>Periswamp</i> , One Hundred & Twelve Pounds, Fifteen Shillings.	112	15	00
<i>Hampton</i> , One Hundred Forty and Eight Pounds, Eighteen Shillings, and Nine Pence.	148	18	09
<i>Dover</i> , One Hundred Pounds, Eleven Shillings & Three pence.	100	11	03
<i>Exeter</i> , Ninety One Pounds, Ten Shillings.	91	10	00
<i>New Castle</i> , Forty Six Pounds, Five Shillings.	46	05	00

And that the Treasurer send out his Warrant to the Constables of the respective Towns, Requiring them to Assemble the Inhabitants to make choice of two Assessors where they are not already Chosen for the year, to joyn with the Select-men in making the Rate and Assessment according to this Act to whom the Treasurer shall also give Warrants pursuant thereto: And the Rates and Assessments so made to be committed to the Constables of the respective Towns by the last of September next ensuing, with Warrants from a Justice of the Peace. And the Select-men and Assessors to Collect the same, and pay unto the Treasurer for the time being, in Mony by the Twentieth Day of December next following.

An Act for Establishing Courts of Publick
Justice within this Province.

WHEREAS the orderly Regulation and Establishing of Courts of Justice, as well in respect of time as place for the holding of the same, doth very much tend to the Honour and Dignity of the Crown, and to the ease and benefit of the Subject.

Justices of the Peace Im-
powred to
hear & deter-
mine causes
of 40 s. value
or under,
where title of
Land is not
concerned.

Appeal.

Be it therefore Enacted by His Excellency the Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That every Justice of the Peace in the same Town where he resides, be, and hereby is fully Authorized and Impowred to hear, try and determine all Pleas and Actions of Debt and Trespas, where Title of Land is not concerned, arising or hapning within this Province, to the value of Forty Shillings or under, and to give Judgment therein and to award Execution thereupon, and either party agrieved at the Judgment or Sentence given by any such Justice in Civil Causes, may appeal therefrom unto the next Inferiour Court of Common Pleas, the party appealing giving Security before such Justice unto the Appellee in a reasonable Sum to prosecute his Appeal with effect, and to answer and pay such Cost and Damages as shall be awarded against him in case the first Sentence be affirmed.

And for the better Conservation of the Peace, and punishment of Offenders.

Court of Ses-
sions of the
Peace.

Be it further Enacted by the Authority aforesaid, That there shall be Held and Kept by the Justices of the Peace within this Province or so many of them, as shall be limited by the Commission of the Peace to make a Quorum. Four Quarterly Courts or General Sessions of the Peace yearly at the Town of Portsmouth on the First Tuesdays on the Months of March, June, September and December from time to time; which said Court shall have Cognizance of all matters and things proper to the Jurisdiction of said Court relating to the Conservation of the Peace, and punishment of Offenders; according to the Laws and Statutes in force within this Province. And the Sessions of the said Court shall hold and continue by the space of two dayes and no longer.

Inferiour
Court of
Common
Pleas.

And be it further Enacted by the Authority aforesaid, That there shall be Held and Kept at Portsmouth aforesaid, an Inferiour Court of Common Pleas by four Justices to be appointed and Commissionated thereto by the Governour, or in his absence the Commander in Chief for the time being; any three of whom to make a Quorum; the said Court to be held and begin at the time and dayes following: That is to say, on Thursday next after the rising of the Court of the Quarter Sessions of the Peace from time to time; which said Inferiour Court of Common Pleas shall have Cognizance of, hear, try and determine all Actions, Matters and Causes tryable at the Common Law, not exceeding the Sum or value of Twenty Pounds, and where Title of Land is not concerned, and give Judgment therein and award Execution accordingly.

Appeal.

Provided nevertheless, That either party agrieved at any Judgment or Sentence given in the said Court may appeal therefrom unto the next Superiour Court of Judicature; such Appellant giving sufficient Security in double the Sum or value recovered unto the Appellee, before one or more of the Justices of the Inferiour Court, to prosecute his Appeal with effect, and to answer and pay such Costs and Damages as shall be awarded against him in case the first Sentence shall be affirmed.

Superiour
Court of Ju-
dicature.

And further be it Enacted by the Authority aforesaid, That there be held and kept at Portsmouth aforesaid, and not elsewhere within this Province a Superiour Court of Judicature by one chief Justice, and three other Justices, to be appointed and Commissionated thereto by the Governour, or in his absence the Commander in Chief for the time being; any three of whom to make a Quorum, on the Second Tuesday in August, and on the Second Tuesday in February yearly from time to time, which said

Courts

Courts of Justice.

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Courts shall have Cognizance of all Pleas, and Causes, as well Civil (not under the value of *Twenty Pounds* except where Title of Land is concerned) as Criminal as fully and amply to all intents and purposes whatsoever, as the Courts of Kings Bench, Common Pleas and Exchequer within His Majesties Kingdom of *England*, have or ought to have, and are hereby Impowred to give Judgment, and award Execution therein, and it shall be in the liberty of any Party, Plaintiff or Defendant agrieved at any Judgment or Sentence given in the said Superiour Court to appeal therefrom unto the Governour and Council. *Provided* the value appealed for exceed the Sum of *One Hundred Pounds* Sterling, and that sufficient Security be given, in manner as in and by this Act is before directed to prosecute the same, and to pay such costs and damages as may be awarded in case the first Sentence shall be affirmed.

Appeal to the Governour and Council.

And it is hereby further Enacted and Ordained, That in all Civil Causes to be commenced at the said Superiour Court of Judicature, where the matter in controversy exceeds the true value and Sum of *Three Hundred Pounds* Sterling, it shall and may be in the liberty of the party agrieved to review the said Cause by a new Process out of the said Court once and no more; and if either party shall not rest satisfied with the Judgment or Sentence of the said Superiour Court, either upon the first Tryal, or upon the Review, such party may appeal therefrom unto His Majesty in Council. *Provided* the matter in difference exceed the true value and Sum of *Three Hundred Pounds* Sterling, and that such Appeals be made, within fourteen days after Sentence given; And that Security be likewise given by the Appellant, to answer such Charges as shall be awarded, in case the first Sentence shall be confirmed.

Appeal to His Majesty in Council.

And be it further Enacted by the Authority aforesaid, That all Writs and Processes for bringing any Actions or Suits to Tryal in any of the Courts aforesaid shall be Summons, Capias or Attachment, and shall Issue out of the Clerks Office of the same Court under the Seal thereof, and Signed by the Clerk, and shall be directed to the Sheriff, Under-Sheriff or Deputy, and Executed fifteen days before the day of the Courts Sitting, and to be returned to the Court from whence the same Issued. Writs or Processes for Tryal before a Justice of the Peace, to be granted by such Justice, directed unto a Constable or Constables, and to be Executed seven days before the day appointed for such Tryal, &c to be returned to the Justice.

Writs to issue forth of the Clerks Office.

For Tryals before a Justice to be granted by such Justice.

And be it further Enacted, That every person appealing from any Judgment or Sentence given in any of the Courts aforesaid, shall file a Declaration in the Clerks Office of the Court appealed from, therein briefly assigning the Errors in such Judgment fifteen days at least before the day of the Sitting of the Court appealed unto. And if the Appeal be made from a Sentence or Judgment given by a Justice of the Peace, such Declaration shall be filed with the Justice by the like time.

Reasons of Appeal to be filed in the Clerks Office.

Be it further Enacted by the Authority aforesaid, That as well the Justices of the Inferiour Court of Common Pleas, as the Justices of the Superiour Court of Judicature respectively; where the forfeiture or penalty of several cases, any Obligation with a Condition under-written, or a penalty annexed to any Articles, Agreement, Covenants, Contracts, Charter party or other Specialty or Forfeiture of any Estate granted upon condition, executed by Deed of Mortgage or Bargain and Sale with defeazance, shall be found by Verdict of Jury, or by default or confession of the Obligor, Mortgager or Vender, are hereby Impowred and Authorized to moderate the Rigor of the Law. And on consideration of such Cases according to equity and good Conscience to Chancer such Forfeiture, and to enter up Judgment, for the just Debt and Damages.

Power of Chancery in several cases.

Duties of Excise &c.

Justices of the Courts to be Sworn before the Governour or Commander in Chief, or such as he shall appoint

Damages, and to award Execution accordingly, only in real Actions upon Mortgage, and Bargain and Sale, with defeazance, the Judgment to be conditional, that the Mortgager or Vender, and his Heirs, Executors or Administrators do pay unto the Plaintiff such Sum as the Court doth determine, to be justly due thereupon within two months time after Judgment entred up, for discharging of such Mortgage or Sale, and that the Plaintiff recover possession of the Estate Sued for, and Execution to be awarded for the same; and the Justices of the said several Courts, as well Superieur as Inferiour respectively, shall take the Oath following, to be Administred to each of them by the Governour, or in his absence by the Commander in Chief for the time being, or such as shall be by him thereto appointed. *That is to say,*

Oath.

YOU Swear, That well and truly you shall Serve our Sovereign Lord the KING and His People in the Office of a Justice of the Court of And that you will do equal Law and Execution of Right to all people, poor and rich, after the Law's in force within this Province, and Usage within the same, and in such cases, as the Law doth specially provide to be relieved in equity, there to proceed according to equity and good Conscience, without having regard to any person whatsoever. So help you God.

Any Law, Usage or Custom to the contrary in any wise notwithstanding.

An Act for continuing several Rates and Duties of Custom, Excise, Impost and Powder Money on Tonnage of Shipping.

WHEREAS in and by one Act of General Assembly of this Province made and past in the Fourth Year of the Reign of KING William and Queen Mary, Entituled, An Act for defraying the Publick Charge of the Province, there was given, and granted unto Their said Majesties several Duties of Impost, Excise and Tonnage of Shipping in the said Act particularly enumerated and set down; Which said Duties have been and are continued by Acts since made, until the fifth day of November next ensuing, at which time they will expire, unless revived by an Act of this Assembly.

Be it therefore Enacted by His Excellency the Earl of Bellomont Governour, Council and Representatives Convened in General Assembly; And it is hereby Enacted and Ordained by the Authority of the same, That from and after the fifth day of November next ensuing, the several Rates and Duties set upon all Wines, Liquors and Merchandizes that shall be Imported into this Province, and all Duties of Tonnage and Excise in and by the said former Act of Impost and Excise, Custom and Tonnage Money, be, and are hereby continued to be paid as in and by the said Act is directed for and during the space and time of one year: *That is to say,* until the fifth day of November, which will be in the Year of our Lord, One Thousand and Seven Hundred, And the Money arising thereby to be applied towards the Support of this His Majesties Government.

F I N I S.